IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3625 OF 2003
IN
CRIMINAL APPEAL NO. 1055 OF 2003

The State of Maharashtra ..Applicant

versus

S. S. Agarwal & Ors. ..Respondents

Mrs. S. D. Shinde, APP for the Applicant - State.
Mr. A. R. Agarwal for Respondent No. 4.

CORAM : D. G. DESHPANDE, J.

DATE : 1ST AUGUST, 2006

P.C. :

1. Heard learned APP for the State - Applicant and Advocate for the Respondent No. 4.

2. This is an application filed by the State for condonation of delay of 144 days in filing the Appeal. This application was strongly opposed by the respondent No.4, firstly, on the ground that this application is not maintainable. Secondly, on the ground that delay is not explained and thirdly he relied upon the judgment reported in **AIR 1964 Supreme Court 200 Kaushalya Rani vs. Gopal Singh**.

3. On the other hand, Learned APP submits that the delay has been properly explained and the judgment of the Supreme Court relied upon by the Respondent No.4, does not apply to the present case.

4. Admittedly, in the judgment of the Supreme Court relied upon by the Respondent No.4 the observations are with reference to appeals filed by private party against the order of acquittal. It is clarified in the Judgment itself that State has a right to challenge the acquittal because prosecutions are at the instance of the State. Therefore, this judgment is of no help to the Respondent No.4.

5. So far as delay is concerned, the delay has been satisfactory explained. Hence, delay is condoned. Application is allowed and disposed of.

6. Put up appeal for admission after two weeks.

(D.G. DESHPANDE, J.)